

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
JOAN SCHNIEBER ET AL.	)	Examiner: Elizabeth A. Gwartney
	)	
U.S. Application No.: 10/524,369	)	Group Art Unit: 1794
	)	
International Application No.:	)	Confirmation No.: 9845
	)	
PCT/US2003/025439	)	
	)	
Filed: August 14, 2003	)	
	)	
For: SNACK HAVING A SOFT EDIBLE	)	
LAYER AND METHOD OF	)	
MAKING	)	

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

DECLARATION UNDER 37 C.F.R. §1.132

Sir:

I, Lisa C. Swanson, declare and say that:

1. I am a Technology Intellectual Property Manager at MARS Chocolate NA and have been in this position since July, 2004. Prior to this position, I have worked in the food and flavor industries as a process development engineer and consultant for over 14 years.
2. I graduated from Rutgers University in 1999 with a Master of Science degree in Food Science, from Lehigh University in 1987 with a Master of Science degree in Chemical Engineering, and from Rensselaer Polytechnic Institute in 1985 with a Bachelor of Science degree in Chemical Engineering.

3. I am familiar with the above-identified United States Patent Application (hereinafter the '369 application), and am aware of the Examiner's rejections, the art cited and the position expressed by the Examiner.

4. I conducted the experiment outlined below for the '369 application, which I believe clearly refutes the Examiner's position that it is not clear to one skilled in the art what the liquid and dry components of a jelly are. In particular, the experiment demonstrates the process of making jelly using the process of layering liquid and dry ingredients and drying as disclosed in the '369 application.

5. The ingredients used were: Sure-Jell® Brand Fruit Pectin for Homemade Jams & Jellies (1-1/3 tablespoons); Water (1-1/2 ounces (45 milliliters)); Welch's® 100% Grape Juice from Concentrate with Vitamin C - No Sugar Added (3/4 cup (180 milliliters)); and Granulated sugar (1-5/16 cups).

6. The fruit pectin powder was mixed with the water until dissolved. The pectin solution was then heated over a medium flame on the stovetop until it began to boil, and then was boiled for 1 minute. The grape juice, which had been refrigerated, was mixed into the hot pectin mixture. The juice-pectin solution was poured into a 15" x 10" metal pan with raised edges. The granulated sugar was then sprinkled evenly over the surface of the juice-pectin solution. The pan of layered liquid and dry components was then placed in a 200 °Fahrenheit oven for about 1 hour. The appearance of the layered material upon removal from the oven was glossy and homogeneous, with no visible sugar crystals, and the texture was that of a soft jelly. The texture of the jelly became firmer upon cooling to room temperature.

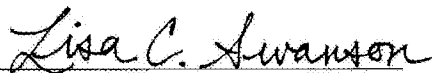
7. It should be noted that the ingredients and their respective quantities, quartered for use in the above experiment, were obtained from the instruction sheet to make an "Easy Freezer Recipe" grape jelly using bottled grape juice accompanying the Sure-Jell® Brand

Fruit Pectin box. However, the method used in the above experiment was modified from that of the packet instructions to mimic the process of layering liquid and dry ingredients and drying as disclosed in the '369 application. See attached copy of Kraft General Foods, Inc., Sure-Jell® Fruit Pectin "Easy Freezer Recipes" (1993).

8. The foregoing result shows that the process of layering a base liquid (e.g., a hydrated pectin and juice solution) and a dry component (e.g., sugar) and drying as disclosed in the '369 application can be used to make a jelly. In summary, I believe that a person skilled in the art reading the disclosure of the '369 application would readily have understood at the time of this invention how to make a jelly by dividing its typical ingredients into a base liquid and a dry component and layering them in accordance with the teaching of the claimed invention of the '369 application.

9. I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Subscribed this 22nd day of December, 2009.

  
Lisa C. Swanson

Attachment: Kraft General Foods, Inc., Sure-Jell® Fruit Pectin "Easy Freezer Recipes" (1993).

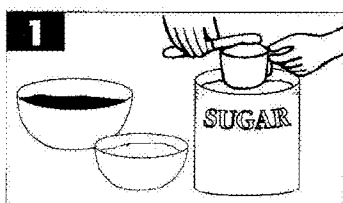
## EASY 3-STEP FREEZER DIRECTIONS

### Equipment Needed

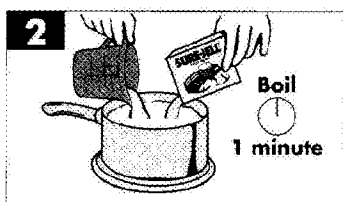
- One large and one medium bowl
- **Liquid** (glass or plastic) measuring cup with **pour spout** to measure fruit
- **Dry** (metal or plastic) measuring cup with **straight top edge** to measure sugar
- Spatula
- Measuring spoons for lemon juice
- Potato masher, food processor or knife and cutting board
- Spoons
- Small saucepan
- Freezer containers and lids (1 to 2 cup size)

### Important Tips Before You Start

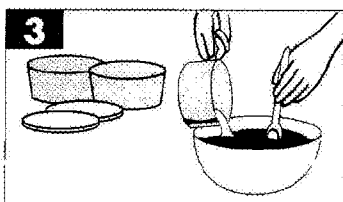
- Use ripe fruit (not under- or overripe) at **room temperature** to help sugar dissolve.
- To prevent browning of light-colored fruits in jams and jellies, add 1 teaspoon EVER-FRESH™ Fruit Protector to prepared fruit.
- **Do not** double recipes. Mixture may not set.
- Rinse clean plastic containers and lids with boiling water.
- For berries, crush 1 cup at a time, using a potato masher for best results. If using food processor, pulse to chop. **DO NOT PUREE**. Jam has bits of fruit.



**PREPARE** fruit as directed in charts below. **Measure** fruit (or juice for jelly) into large bowl along with lemon juice (if called for in recipe). **Measure** sugar into medium bowl. (Scrape excess sugar from cup with spatula to level for exact measure.) **Stir** sugar into fruit or juice. **Set aside for 10 minutes; stir occasionally.** **DO NOT REDUCE SUGAR OR USE SUGAR SUBSTITUTES. THE EXACT AMOUNTS OF SUGAR, FRUIT AND PECTIN ARE NECESSARY FOR A GOOD SET.**



**STIR** 1 box SURE-JELL® Fruit Pectin and 3/4 cup water in small saucepan. (It may be lumpy before cooking.) Bring mixture to **boil** on high heat, stirring constantly. **Boil and stir 1 minute.** Remove from heat.




**STIR** pectin mixture into fruit or juice mixture. **Stir** constantly UNTIL SUGAR IS COMPLETELY DISSOLVED AND NO LONGER GRAINY, about 3 minutes. (A few sugar crystals may remain.) **Pour** quickly into clean plastic containers to within 1/2 inch of tops. **Wipe off** top edges of containers; cover with lids. **Let stand** at room temperature 24 hours to set. Some jams and jellies are slow to set. If not set after 24 hours, refrigerate for time indicated on recipe. **For immediate use, store in refrigerator up to 3 weeks. Freeze remaining containers up to 1 year. To use, thaw in refrigerator.**

## EASY FREEZER RECIPES (Takes less time, fresh fruit taste, softer set.)

### Jams

Jam Fruit to Buy	How to Prepare Fruit	Ingredients	Approx. Yield (Cups)
<b>Apricot</b> 1 3/4 lb. 1 lemon	Remove pits (do not peel) and finely chop.	2 1/2 cups chopped apricots 2 Tbsp. fresh lemon juice 5 1/2 cups sugar	<b>7</b>
<b>Blueberry</b> 2 1/2 pt.	Remove stems and crush.	3 cups crushed blueberries 5 1/4 cups sugar	<b>7</b>
<b>Cherry (Sour)</b> 1 1/2 lb.	Remove stems, pit and finely chop.	2 cups chopped cherries 4 cups sugar	<b>5</b>

<b>Cherry (Sour)</b> 1 1/2 lb.	Remove stems, pit and finely chop.	2 cups chopped cherries 4 cups sugar	<b>5</b>
<b>Peach</b> 2 lb. 1 lemon	Peel, pit and finely chop.	2 1/4 cups chopped peaches 2 Tbsp. fresh lemon juice 5 cups sugar	<b>6</b>
<b>Red Raspberry or Blackberry</b> 3 pt.	Crush. Sieve 1/2 of the pulp to remove some seeds, if desired.	3 cups crushed berries 5 1/4 cups sugar	<b>7</b>
<b>Raspberry-Peach</b> 1 1/2 pt. raspberries 1 1/4 lb. peaches	Crush raspberries. Peel, pit and finely chop peaches.	2 cups crushed raspberries 1 1/2 cups chopped peaches 7 cups sugar	<b>7</b>
<b>Strawberry</b>  1 qt.	Remove stems and crush.	2 cups crushed strawberries 4 cups sugar	<b>5</b>
<b>Strawberry-Blueberry</b> 1 1/2 pt. strawberries 1 pt. blueberries	Remove stems and crush.	1 1/2 cups crushed strawberries 1 cup crushed blueberries 4 1/2 cups sugar	<b>6</b>

## Jellies

Jelly	Ingredients	Approx. Yield (Cups)
<b>Apple</b>	2 3/4 cups bottled apple juice 5 3/4 cups sugar	<b>6</b>
<b>Grape</b> (Takes 1 week to set.)	3 cups bottled grape juice 5 1/4 cups sugar	<b>7</b>
<b>Grapefruit</b>	2 cups fresh or reconstituted frozen grapefruit juice 4 1/2 cups sugar	<b>5</b>
<b>Hot Pepper</b> (Takes 1 week to set.)	2/3 cup whole pickled jalapeño peppers, drained, seeded and chopped* 2 1/2 cups bottled apple juice 3 Tbsp. vinegar 6 cups sugar 1 drop green food coloring (add to prepared peppers and juice) *Buy 1 jar (10 1/4 ounces) peppers. Protect hands with plastic gloves while preparing peppers. Place peppers in blender or food processor; cover. Pulse (on/off) to evenly chop. <b>DO NOT PUREE.</b>	<b>7</b>

## Special Offers

### DECORATIVE LABELS OFFER

Send for your set of 60 self-adhesive decorative labels. They're a handy way to personalize your jams and jellies, and they add a decorative touch for gift use. Send **\$1.75 (check or money order)** plus one SURE•JELL® proof-of-purchase (UPC bar code) with your name, address, and ZIP code to:

**Gift Labels**  
**P.O. Box 23137**  
**Kankakee, IL 60902-3137**

### JAR TOPPERS OFFER

Send for your set of 12 jar toppers. Made of fabric in several pretty designs, they'll add a decorative touch to your jam and jelly containers and are perfect for gift use. Send **\$1.99 (check or money order)** plus one SURE•JELL® proof-of-purchase (UPC bar code) with your name, address, and ZIP code to:

**Jar Toppers**  
**P.O. Box 23138**  
**Kankakee, IL 60902-3138**

Allow 6 to 8 weeks for delivery. Offers void where prohibited, taxed or otherwise restricted. Offers good only in USA, Puerto Rico and U.S. Government Installations. No proof-of-purchase will be accepted other than that specified.

### FREE NEWSLETTER

Subscribe to our semi-annual Jam & Jelly Times newsletter for recipes, tips and coupons. Just send your name, address, and ZIP code to:

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